

**AN ORDINANCE  
BY: ZONING COMMITTEE**

**05-0-0317**  
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**AN ORDINANCE TO AMEND VARIOUS SECTIONS OF THE ZONING CODE OF THE CITY OF ATLANTA, FOR THE PURPOSE OF CLARIFYING AND/OR REDEFINING CERTAIN TERMS RELATED TO CONTINUING CARE RETIREMENT CENTERS; AND FOR OTHER PURPOSES.**

**WHEREAS**, Section 16-29.001 of the City of Atlanta Zoning Code (the "Zoning Code" contains definition of terms; and

**WHEREAS**, the Zoning Code also defines the various zoning classifications where defined uses are allowed and the manner in which uses are permitted; and

**WHEREAS**, it is in the best interest of the City to clarify and amend certain definition in the Zoning Code associated with Personal Care Homes in an effort to become more consistent with local, state, federal and county government regulations by defining Continuing Care Retirement Centers and to adopt legislation for that purpose; and

**WHEREAS**, it is in the best interest of the City and for the health, safety and welfare of its residents and businesses that these definitions be adopted to provide more specific guidance as to where continuing care retirement centers may be located.

**THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA HEREBY ORDAINS,  
as follows:**

**Section 1.** That Section 16-29.001(16)(b) of the Zoning Code of the City of Atlanta be amended to include the underlined language so as to read as follows:

**(b) Assisted Living Facility:** A personal care home as defined in this section but having 25 or more beds and which offers a range of accommodations that range from independent residential housing options to housing options with personal services. A residential use, which could otherwise be classified as multifamily, is to be considered an Assisted Living Facility if it is registered with or licensed by the State of Georgia as an assisted living home. Any facility licensed by the State of Georgia as a facility offering a contract to provide an individual of retirement status, other than an individual related by consanguinity or affinity to the provider furnishing the care, with board and lodging, licensed nursing facility care and medical or other health related services is a subtype of assisted living facility to be described as a Continuing Care Retirement Community (CCRC). The inclusion of skilled nursing care in a CCRC under a certificate of need issued by the State of Georgia shall be considered part of the assisted living facility and shall not be deemed to be a separate use for purposes of measuring distances between personal care homes, assisted living facilities, rehabilitation centers and/or nursing homes. Any dwelling, facility or structure which for any reason is not required to be licensed by the State of Georgia as an assisted living home, or fails to be licensed by or registered with the State of

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Georgia as an assisted living home but, which through its ownership or management undertakes for a fee or accepts a grant or utilizes its own funding to provide or arrange for the provision of housing, food service, and one or more personal services for any person and which also provides beds for twenty-four or more persons, who are not related to the owner or administrator by blood, marriage or adoption shall also be considered an assisted living home for the purpose of this definition. This definition shall apply without regard to whether any fee charged is paid by the individual to whom the services are provided or by another person, the source of the grant, or the funding source for the operational costs and without regard to whether the facility is operated for profit or not for profit. Personal services include but are not limited to individual assistance with or supervision of self-administered medication, and essential activities of daily living such as bathing, grooming, dressing and toileting. For the purposes of this ordinance, a "child caring institution" or "group-care facility" as defined in O.C.G.A. § 49-5-3 (as amended) shall also be considered with twenty-five (25) or more beds shall also be considered an assisted living facility. The approval and/or issuance of any special use permit for operation of an assisted living facility by the city may precede the issuance of permits or licenses from the State of Georgia, provided however that any special use permit granted under the terms of this part shall be conditioned on the issuance of the appropriate permits, licenses or registrations required by the State of Georgia.

Such facilities shall comply with the following standards:

1. No such facility shall be located within 2,000 feet of any Personal Care Home, Assisted Living Facility, Community Service Facility as defined in O.C.G.A. § 37-4-2, Nursing Home, Rehabilitation Center, or Supportive Housing Facility.
2. Any assisted living facility must specify the maximum number of beds for which personal services, of the type offered in a personal care home, will be made available.
3. The holder of any special permit issued in accordance with Sec. 16-25.001 *et seq.* of this part, whenever such permit was granted, shall make no alterations or additions to the primary structure for the purpose of increasing the number of persons to whom personal care services are provided.
4. All Assisted Living Facilities must provide at least 80 square feet of personal living space per resident or provide that amount required by the State of Georgia for the licensing of assisted living homes, whichever is greater.
5. No signs regulated by Chapter 16-28A shall be permitted other than those permitted by the regulations of the zoning district within which such personal care home is located.
6. Each location shall be within 1,500 feet of a public transportation station or transit stop or the operator of the personal care home shall be required to provide transportation service for its occupants as a condition of the special use

permit.

7. Where such use is allowed in any zoning district, and no parking requirements for the use are specified, the parking requirements to be applied will be those governing multi-family residential uses.

**Section 2.** That Section 16-29001(16)(f) of the Zoning Code of the City of Atlanta be amended to include the underlined language so as to read as follows:

***f) Enforcement of Distance Regulations:*** Each lot of record existing as of the effective date of this ordinance occupied by or for which application has been made to be occupied by a personal care home or rehabilitation center shall be construed as a separate and distinct use. The distance requirement in paragraphs (a) (b) (c) and (d) measured as defined in paragraph (e) shall be applicable to each such lot of record containing a personal care home, assisted living facility, rehabilitation centers or nursing home notwithstanding common ownership of such property, the existence of a common lease agreement for any or all of the property, or any other common operational characteristics. Personal Care Home, Assisted Living Care, Rehabilitative Center and/or Nursing Home services and uses within the same approved Continuing Care Retirement Community shall not be deemed to be separate uses for purposes of measuring distances between personal care homes, assisted living facilities, rehabilitation centers and/or nursing homes.

**Section 3.** That Section 16-29001(16)(g) of the Zoning Code of the City of Atlanta be amended to read as follows:

***(g) Time Limits Related to State of Georgia License, Permit or Registration Requirements:*** Any special use permit issued for the uses defined in this section shall become void if the license, permit or registration required by the State of Georgia has not been issued within (6) six months of the date of approval of the special use permit or within sixty (60) days of the issuance of a certificate of occupancy for new construction. Any special use permit issued for a Continuing Care Retirement Community, as defined by the Georgia Administrative Code and referenced in Code Section 16-29-001(16)(b), shall become void if an application for a Certificate of Authority has not been submitted to the State Insurance Commissioner within (6) six months of the date of approval of the special use permit. If any such license, permit or registration required by the State of Georgia has expired or been revoked and is not renewed or reissued, and the special use permit has not been transferred to another applicant within six (6) months of the date that such revocation or expiration became effective, the special use permit shall become null and void. If all steps required for the application for transfer of the special permit have been completed within six months of the date that such revocation or expiration became effective, the special permit will remain effective until the date that final action is taken on the application for transfer. An application who receives a special permit by transfer

has six months after the date that the transfer becomes effective to obtain any license, permit or registration required by the State of Georgia, or the special permit shall be void. Any special permit, which becomes void pursuant to this sub-section shall not require any act by the governing body to revoke the permit of the continued operation of the use to be in violation of this part.

**Section 4.** That the uses permitted in PD-MU and PD-OC zoning districts be amended in the following subsections:

**Subsection 4A.** That Section 16-19B.003(11) of the Zoning Code of the City of Atlanta, which reads as follows:

(11)Child care

Be amended by striking the existing language and replacing it with the following:

(11)Child care, Continuing Care Retirement Communities as defined in Section 16-29.001(16)(b).

**Subsection 4B.** That Section 16-19C.003(11) of the Zoning Code of the City of Atlanta, which reads as follows:

(11)Child care

Be amended by striking the existing language and replacing it with the following:

(11)Child care, Continuing Care Retirement Communities as defined in Section 16-29.001(16)(b).

**Section 5.** This ordinance shall become effective immediately upon its approval by the Council and signature by the Mayor or by operation of law.